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In re Application of
Biggs, et al.
Appl. No.: 09/752,759
Filed: December 28, 2000
For: SYSTEM FOR ACCESSING AMENITIES THROUGH A
PUBLIC TELEPHONE NETWORK

DECISION ON PETITION TO
EXPUNGE INFORMATION
UNDER 37 CFR 1.59

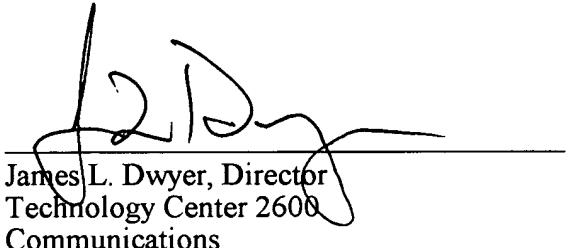
This is a response to the petition under 37 CFR 1.59(b), filed June 13, 2002, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the entire Protest plus the accompanying Exhibits, filed November 05, 2001, be expunged from the record. Alternatively, petitioner requests that the information to be expunged could include only Exhibits G and K and the portion of the protest relating to Exhibits G and K. A petition under 37 CFR 1.59(b) to expunge information submitted under MPEP § 724.02 must contain: (A) a clear identification of the information to be expunged without disclosure of the details thereof; (B) a clear statement that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; (E) the fee as set forth in 37 CFR 1.17(I) for petition under 37 CFR 1.59(b).

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time (MPEP 724.05, Part I.). The protest materials identified as being subject to a protective order will be handled in accordance with MPEP 724.04(b).

The application is being forwarded to the examiner for prosecution on the merits. During prosecution on the merits, the examiner will determine whether or not the identified document(s) are considered to be "material." Upon the close of prosecution, a decision will be made on the petition to expunge. If the information is not considered by the examiner to be material, the information will be returned to applicant.



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